

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
)	
Federal-State Joint Board on Universal Service;)	
Promoting Deployment and Subscribership in)	CC Docket No. 96-45
Unserved and Underserved Areas,)	
Including Tribal and Insular Areas)	
)	
)	

**JOINT REPLY COMMENTS OF SALT RIVER
PIMA-MARICOPA
INDIAN COMMUNITY AND SADDLEBACK COMMUNICATIONS**

The Salt River Pima-Maricopa Indian Community¹ and Saddleback Communications (“Saddleback”)² (together “Salt River” or the “Commenters”) submit the following reply comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Report and Order and Further Notice of Proposed Rulemaking

¹ Salt River is a federally recognized Indian Tribe located east of Scottsdale, Arizona. The Salt River community is bounded by the cities of Scottsdale, Tempe, and Mesa, Arizona, which make up part of the Phoenix metropolitan area. The tribe’s population consists of roughly 6,300 people, with approximately 50 percent of the tribe’s members being under the age of nineteen.

² Saddleback is a division of, and has been licensed by, Salt River to provide local exchange services on Salt River lands. In 1997, Saddleback invested in a state-of-the-art digital switching and transmission network. Saddleback contracted with Mountain Telecommunications, Inc. to maintain and operate its network and sell excess network capacity throughout the state of Arizona.

concerning promoting deployment and subscribership in unserved and underserved areas, including tribal and insular areas (“FNPRM”).³

DEADLINE FOR RESOLVING SECTION 214(e) DESIGNATION REQUESTS

The Commission seeks comments on three issues: (1) the merits of setting a six-month time limit on resolving any request for eligible telecommunications carriers (“ETC”) designation under section 214(e); (2) whether to apply a similar time limit for resolution of jurisdictional issues regarding ETC designation; and (3) whether the Commission has the authority to enforce such time restraints.⁴ The Commenters do not view the time limits or the Commission’s enforcement authority as the key issues here. Rather, Salt River submits that consultation with the tribal governments is the paramount concern.

In this regard, Salt River agrees with the comments submitted by the Cheyenne River Sioux Tribe Telephone Authority (“Telephone Authority”) in response to this FNPRM.⁵ Any rule regarding the designation of ETC’s on tribal lands must include a process of consulting with each affected tribal government. To do otherwise would be contrary to both the federal government’s trust responsibility to tribes and the

³ Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, CC Docket No. 96-45, FCC 00-208 (Rel. June 30, 2000)

⁴ *Id.* at ¶ 152.

⁵ *See Comments of the Cheyenne River Sioux Tribe Telephone Authority*, dated August 7, 2000.

Commission's own policy.⁶ Any proposed time limit must factor in the Commission's need to consult with the tribal governments and ensure that the rule is flexible enough to incorporate consultations notwithstanding a time limit.

The Commenters also agree with the Telephone Authority's comments regarding a similar time limit for resolution of jurisdictional issues regarding ETC designation.⁷ Salt River believes setting a time limit for jurisdictional resolution would help expedite the ETC designation process without sacrificing tribal governmental rights. Furthermore, Salt River concurs with the Telephone Authority that the Commission does have the authority to set such a time limitation for this purpose.⁸

Finally, the Commission requested comments on whether the Commission has the authority to enforce such time restraints.⁹ The Commenters acknowledge the concerns expressed by certain commenters regarding the Commission's authority.¹⁰ The primary concern of these commenters is that the Commission would be usurping state authority by setting time limits.¹¹ They also argue that states are closer to, and therefore are more

⁶ *Id.* (citing *In the Matter of Statement of Policy on Establishing a Government-to-Government Relationship With Indian Tribes Policy Statement* (June 8, 2000)).

⁷ *Id.*

⁸ *Id.*

⁹ *FNRPM* at ¶ 152.

¹⁰ See *Comments of the National Telephone Cooperative Association*, dated September 1, 2000; *Comments of the United States Telecom Association*, dated September 1, 2000.

¹¹ *Id.*

knowledgeable about the needs and concerns of tribal governments within their state.¹² However, Salt River submits that in most cases, states do not have jurisdiction. In addition, as stated previously, Salt River feels strongly that the overriding issue is consultation between the federal government and tribal governments. Whether ETC designations are made in six months or nine months is important, but secondary to the principal concern that tribal governments be consulted. Any rule defining the process of ETC designation on tribal lands must include provisions requiring consultation with the affected tribal governments.

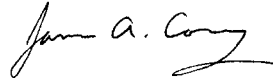
CONCLUSION

Salt River agrees with the Commission's goal of expediting ETC designations on tribal lands. However, any time limits imposed cannot be at the expense of permitting consultations to take place between the federal government and affected tribal governments. The uniqueness of the tribes, not to mention the federal government's trust responsibility to the tribes and the Commission's own policy, dictate that consultation must occur before designations are made. Therefore, Salt River strongly urges the

¹² *Id.*

Commission to include a mandatory consultation provision in any rules governing the process of ETC designation.

Respectfully submitted,



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